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SUBJECT: MFA DEMARCHES ON ODYSSEY'S NEW SHIPWRECK FIND

REF: 07 MADRID 0118

1. (U) This is an action request. See paragraph 5.

2. (SBU) Summary. A recent discovery by Odyssey Marine Exploration company of an unidentified shipwreck, currently referred to as the "Black Swan", has created some controversy in the Spanish press and in GoS days before the local elections. La Gaceta, a right wing paper, has run consecutive front page stories over the past few days criticizing both the Odyssey as well as the Spanish government for failing to stop the "treasure hunters". Inherent in these criticism is the belief that the discovery is either in Spanish waters or of Spanish provenance. Odyssey representatives in response have asserted that the unidentified wreck is located in undisputed international waters, and that they have followed all legal procedures required. Nonetheless, GoS - both MFA and Ministry of Culture - have expressed their disappointment with Odyssey to us and have said that they will suspend all cooperation on the HMS Sussex salvaging operations as a result (see above reftel).

3. (SBU) MFA delivered the following urgent diplomatic note dated May 22. Begin text of our unofficial translation:

The Ministry of Foreign Affairs and Cooperation presents its compliments to the Embassy of the United States of America and would like to refer to the finding and removal by the US company, Odyssey Marine Exploration, of objects of archeological value from the wreck of a ship referred to in code as "Black Swan" which reached Tampa Airport on May 17 from Gibraltar in an American Airlines Boeing 757, registration N-750NA, arranged by "Transport Service".

In light of Odyssey Marine Exploration communiques, dated 18 and 21 May 2007, referring to legal importation into the United States of sub-aquatic archeological objects recovered through operation "Black Swan", and the lack of any precise information regarding the location and the exact identity of the wreck, the Ministry of Foreign Affairs and Cooperation has the honor of requesting confirmation (from the United States) of the transfer by plane from Gibraltar of said objects, as well as the issuance of the necessary customs permits, for entry into the United States. The purpose of this request is to preserve any potential rights the Spanish Government may have over the aforementioned objects.

The Ministry of Foreign Affairs and Cooperation has requested confirmation from the Odyssey Marine Exploration company of the identity and location of the wreck from which the archeological objects were taken.

The Ministry of Foreign Affairs and Cooperation would like to inform the United States that the Spanish Government will continue channeling the information it obtains relating to the removal and transfer of the objects from the wreck of the so-called "Black Swan" and will, as necessary, take any action it deems appropriate to duly protect its sub-aquatic

cultural heritage.

The Ministry of Foreign Affairs and Cooperation renews to the Embassy of the United States of North America the assurances of its consideration. End text.

¶4. (SBU) Comment: MFA officials made clear that they feel "had" by Odyssey. They felt that, having intervened in Odyssey's behalf with the Ministry of Culture and the Junta de Andalucia on the Sussex issue, they should have received some sort of heads up before Odyssey went public with its announcement. They understand that Odyssey believes that it has, thus far, complied with the letter of salvage law, but they believe that it has not been respectful of the spirit of conventions and laws governing undersea heritage sites. Spanish press coverage has been fairly inaccurate, with a great deal of confusion between the "Black Swan" and "Sussex". Although the press stories seem focused on the possibility that Odyssey took the 17 tons of gold and silver coins from Spanish territorial waters, the Spanish government is more realistically focused on the ownership of the wreck from which the coins were taken. We were called in to receive the Nota Verbale May 23, and the UK went in just before us to be told officially that cooperation on the Sussex project was suspended.

¶5. (U) Post kindly requests guidance on the response to the demarche.

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